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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,935	07/29/2003	Tony Joseph Abshire	IPK- 022780-US	7508

7590 04/20/2005

Joshua S. Broitman
Ostrager Chong & Flaherty LLP
30th Floor
825 Third Avenue
New York, NY 10022-7519

EXAMINER

ELKINS, GARY E

ART UNIT PAPER NUMBER

3727

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/628,935

Applicant(s)	
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ABSHIRE ET AL.

Examiner

Gary E. Elkins

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20030729.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 20 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 20 is dependent upon claim 119 which is not present within the application. It is assumed for the purpose of applying the prior art that claim 19 was the intended dependency. However, correction is required.

Claim Rejections - 35 USC § 112

2. Claims 1-20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 4 is unclear with respect to how a single free edge is present on all the end panels, i.e. it would appear as depicted that each end panel includes a free edge independent from the other end panels.

In claim 1, lines 5 and 6 are unclear with respect to how one of the parallel fold lines is closest to all the notches, i.e. it would appear that the claim is referring to one of the parallel fold lines is closest to a respective one of the notches as opposed to all the notches.

In claim 1, line 7, "the notches from each of the end walls" lacks antecedent basis in the claim since only two notches were previously defined in the claim. If two notches in each of the end walls is being claimed in line 4, the term ---each--- should be inserted before "end panels" in line 4.

In claim 1, line 8, “the notches from an adjacent one of the end panels” lacks antecedent basis in the claim.

Claim 5 is unclear since the notches were previously defined in the end panels rather than the side panels.

In each of claims 6, 12 and 18, lines 1 and 2 are unclear with respect to how a plurality of diagonal score lines extend from an interior corner of each of the notches, i.e. as shown, only a single score line extends from each of the notches.

In each of claims 6, 12 and 18, line 2, “end panels” is a double inclusion of an element insofar as the end panels were previously defined in the claims and are being reintroduced into the claims.

In each of claims 6, 12 and 18, line 3, “one of the parallel fold lines closest to the notches” is unclear for the same reason as set forth above with respect to claim 1, lines 5 and 6.

In claim 9, lines 1 and 2, it is unclear how the side panels are hingedly joined together by both the parallel fold lines and the end panels.

In claim 9, lines 2 and 3, it is unclear how the plurality of end panels have a single free common free edge and a single common hinged edge foldably attached to all the side panels, i.e. it would appear that each of the end panels has a free edge and a hinged edge foldably attached to one of the side panels.

In claim 9, line 4, “the free edge of four opposing end panels” is unclear with respect to how a single edge is common to all the end panels, i.e. as shown in the drawings, each end panel has a separate free edge.

In claim 9, line 4, “end panels” is a double inclusion of an element.

In claim 9, lines 4-6 are unclear with respect to how each notch is spaced an equal distance from a plurality of parallel folding lines forming the adjacent side panel, i.e. as shown, each notch is spaced an equal distance from a closest one of the parallel fold lines as opposed to both parallel folding lines.

In claim 9, lines 7 and 8, "the notches from each of the end panels" and "the notches from an adjacent one of the end panels" each lack antecedent basis in the claim. Lines 3 and 4 define only two notches. If two notches in each end panel is the intended limitation, line 4 should read, e.g. ---...formed in the free edges of each of four opposing said end panels---

Claim 15 includes the same indefiniteness as set forth with respect to claim 9 above.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 9-11 and 15-17, as best understood in view of paragraph 2 above, are rejected under 35 U.S.C. 102(b) as being anticipated by Straub et al. Straub et al discloses two notches formed 33, 43 formed in the free edges of end panels 30, 40 as claimed. With respect to claims 2, 10 and 16, note is made of the tapered notches shown in fig. 4.

5. Claims 1, 9 and 15, as best understood in view of paragraph 2 above, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Blasdel.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-5, 10, 11, 16 and 17, as best understood in view of paragraph 2 above, are rejected under 35 U.S.C. 103(a) as being unpatentable over Blasdel in view of Straub et al. Blasdel discloses all structure of the claimed carton, end closure and blank except formation of the notches with a wider mouth and a narrower base. Straub et al teaches that it is known to make interlocking notches extending from the free edges of end panels or flaps on boxes with a tapered shape. It would have been obvious to make the notches in Blasdel with a tapered shape as taught by Straub et al since a tapered shape allows easier insertion and guiding of the flaps during insertion when interlocking the closure flaps.

Allowable Subject Matter

8. Claims 6-8, 12-14 and 18-20, as best understood in view of paragraph 2 above, would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The remaining cited prior art is illustrative of the general state of the art.

In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (703)872-9306. This practice may be

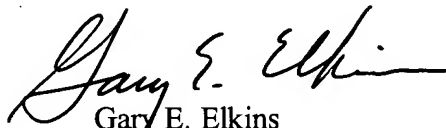
Art Unit: 3727

used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday, Wednesday and Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Lee Young can be reached at (571)272-4549.



Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
18 April 2005